

JOHN BUHLER,

DECEMBER 28, 1831.

Mr. MARDIS, from the Committee on Private Land Claims, made the following

REPORT:

The Committee on Private Land Claims, to whom the petition of John Buhler was referred, report:

That they adopt the report made by this committee at the last session of Congress, on the subject of this claim. Said report is herewith submitted, with the accompanying bill,

FEBRUARY 15, 1830.

The Committee on Private Land Claims, to whom was referred the petition of John Buhler, of Louisiana, report:

The petitioner sets out in his petition, that, on the 8th of March last, he became the purchaser, at probate sale, of a tract of land belonging to the estate of Stephen Hackney, deceased; that Hackney became possessed of it by a deed of transfer from Mary Berryman: that it would seem that Berryman became possessed of it by a transfer from the heirs and representatives of Jeremiah Kelsey; that he finds that no entry has ever been made of it at the Land Office at St. Helena, and that the original titles, dated August 28th, 1801, are lost, and cannot be found: wherefore, he prays that he may be confirmed in his title to the premises by virtue of the settlement, habitation, and cultivation, of Balam Berryman and Mary his wife.

The affidavit of Joshua Alexander, a resident in the said parish, and who it appears joins lands with the premises, shows that the said Balam Berryman and Mary his wife, settled on the said land in the beginning of the year 1809 or 1810, and that they inhabited and cultivated it, raising annual crops of corn and cotton, until the said Balam died; that the widow of Berryman continued to reside on the land until she died, having previously made a title to Stephen Hackney. The title deed of Mary Berryman accompanies the papers, and appears in due form, and to have been regularly enrolled in the appropriate office. It is acknowledged before Charles Tessier, the parish Judge of Probate for the parish of East Baton Rouge, and specifies that, "for the love and affection which she (Mary Berryman) bears to

the said Stephen Hackney, she transfers, assigns, and sets over to him, Stephen Hackney) the plantation whereon she now resides: containing five hundred and twenty-two acres, agreeably to a plat of the same, made for Jeremiah Kelsey, of the date of August, 1801, and signed by Christopher Bollings." Phil. Thomas swears, that Balam Berryman and Mary his wife settled on the land in the year 1809 or 1810; that they inhabited and cultivated until they both died, which was for six or eight years. John Perney, sen. swears to nearly the same facts. They all describe the land as lying on the east side of the Mississippi river, adjoining lands on its upper line belonging to the heirs of John C. Faulkner, and on the lower by lands claimed by Joshua Alexander, and on the east, by lands confirmed by Congress to John Cooper. The certificate of the above named Charles Tessier, the parish Judge of Probate, under his official seal, shows that the sale and transfer to the petitioner was regular and in due form. There is little doubt as to the continued habitation and cultivation from the year 1810 until the death of Stephen Hackney. The committee think that no great reliance can be placed upon the transfer supposed to be made by Christopher Bollings to Jeremiah Kelsey, nor indeed does the petitioner himself seem to rely upon it, but asks a confirmation upon the ground of the cultivation and habitation of Berryman and his wife and Stephen Hackney. The sale of the land, under and by the order of a competent tribunal, having jurisdiction of the case, and the purchase by the petitioner for a valuable consideration, at a public sale, being the highest bidder, seems to the committee to be conclusive evidence of the fairness of the transaction on his part. Under such circumstances the petitioner can, with much plausibility, if not justice, allege his ignorance of the fact, that no entry had ever been made with the Commissioners for examining such titles, or with the Register of the Land Office in that district. The only question then for the committee to determine is, whether, from the facts stated, in relation to the habitation of the former occupants, he is entitled to a confirmation of title to the premises. The statute of the third of March, 1819, seems to recognise as good and valid, all titles to land in that part of the country in which these are situated, founded upon habitation and cultivation, prior to the 15th day of April, 1813. That statute declares, "that every person, or his or her legal representative, whose claim is comprised in the lists or registers of claims reported by the Commissioners, and the persons embraced in the lists of actual settlers, or their legal representatives, not having any written evidence of claim reported as aforesaid, shall, when it appears by the said reports, or by the said lists, that the land claimed or settled on had been actually inhabited or cultivated by such person or persons, in whose right he claims, on or before the 15th day of April, 1813, be entitled to a grant for the land so claimed or settled on, as a donation: provided, that not more than one tract shall be thus granted to any one person, and the same shall not contain more than six hundred and forty acres." The statute of the 8th of May, 1822, is a literal transcript of the foregoing, except that it embraces the lists of the Registers and Receivers of the Land Offices in the St. Helena and Jackson court-house districts, instead of the Commissioners who were appointed to examine titles in that part of the country. See L. L. pages 759, and 823.

If the principle established by those acts, extends to all the lands in the St. Helena and Jackson districts, and that it does there can be little doubt, the committee cannot avoid the conclusion, that the petitioner has brought himself fairly within their equity, and is therefore entitled to relief under them. They therefore report a bill.